

NO. 23915

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

AMERIQUEST MORTGAGE COMPANY, Plaintiff-Appellee

vs.

GARY KAMA, JOELYN J. KAMA, also known as JOELYN KAMA,
JOHN D. KAUPIKO, also known as JOHN KAUPIKO, MAY M.
KAUPIKO, also known as MAY KAUPIKO, Defendants-Appellants,

and

JOHN DOES 1-50, JANE DOES 1-50, DOE PARTNERSHIPS 1-50,
DOE CORPORATIONS 1-50, DOE ENTITIES 1-50,
and DOE GOVERNMENTAL UNITS 1-50, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 99-1503)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson,
Nakayama, Ramil, and Acoba, JJ.)

Upon review of Appellants' statement of jurisdiction and the record, it appears that: (1) the appeal of the order confirming the foreclosure sale and the judgment for possession is an appeal from the second part of the foreclosure case filed in Civil No. 99-1503; (2) the second part of the foreclosure case has not been finally completed inasmuch as the order confirming the foreclosure sale directs entry of a deficiency judgment and such deficiency judgment has not been entered; see Hoge v. Kane I, 4 Haw. App. 246, 247, 663 P.2d 645, 647 (1983); (3) waiver of the deficiency judgment is not established by the record; (4) review of the judgment for possession when the second part of

the foreclosure case is finally completed does not subject Appellants to irreparable harm inasmuch as the right to possession must have been challenged by appealing from the October 13, 1999 judgment of foreclosure and no appeal from that judgment was filed; see Independence Mortgage Trust v. Glenn Constr. Corp., 57 Haw. 554, 560 P.2d 488 (1977); Security Pac. Mortgage Corp. v. Miller, 71 Haw. 66, 783 P.2d 855 (1989); and thus, (5) this appeal is premature and we lack jurisdiction.

Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, March 1, 2001.